

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

LUCAS CALIXTO, et al.

*Plaintiffs,*

v.

UNITED STATES DEPARTMENT OF  
THE ARMY, et al.,

*Defendants.*

Civil Action No.18-1551 (ESH)

**DEFENDANTS' RESPONSE TO THE COURT'S OCTOBER 22, 2019 ORDER**

In accordance with the Court's October 22, 2019 Order (ECF No. 145), Defendants respectfully submit the following responses. The Court's order required Defendants to file a report by November 4, 2019, that answers the following questions:

1. Of the approximately 692 individuals who received negative MSSR notifications pursuant to ¶ of the October 26, 2018 policy: **Approximate numbers were reported during the hearing on October 21, 2019. As of October 31, 2019, 691 individuals have been issued adverse MSSR notices under the Army's October 26, 2018 policy.**

a. How many are DTPs? **443**

Of those:

- (1) how many provided mitigating information? **76**
- (2) how many declined to provide information/accepted the negative MSSR? **5**
- (3) how many have yet to respond/no response received? **293**
- (4) how many were marked undeliverable/return to sender? **69**

b. How many are DEPs? **248**

Of those:

- (1) how many provided mitigating information? **74**

- (2) how many declined to provide information/accepted the negative MSSR? **26, includes one response returned where individual refused to sign.**
- (3) how many have yet to respond/no response received? **131**
- (4) how many were marked undeliverable/no contact? **17**

2. Of the approximately 67 individuals who received notifications pursuant to ¶5 of the October 26, 2018 policy: **67 individuals were offered reinstatement pursuant to the Army's October 26, 2018 policy.**

a. How many were DTPs? **35**

Of those:

- (1) how many accepted? **26**
- (2) how many declined? **1**
- (3) how many did not respond? **5**
- (4) how many were marked mail undeliverable? **3**

b. How many were DEPs? **32**

Of those:

- (1) how many accepted? **16**
- (2) how many declined? **0**
- (3) how many did not respond? **8**
- (4) How many were marked undeliverable/no contact? **8**

Additionally, Defendants have provided Plaintiffs' counsel with the names of all DTP individuals sent such notification pursuant to ¶5 of the October 26, 2018 policy and who either did not respond or for whom the notification was marked undeliverable. Notwithstanding this group of individuals who were discharged, Army Regulations require that individuals in the U.S. Army Reserve shall "furnish a primary residence address *and report any changes, such as moving to a new primary residence*, to their immediate commander or the CG, HRC (AHRC-OPL-P for officers and AHRC-EPR-J for enlisted.), as appropriate, not later than the next unit training assembly". Army Reg. 135-133, Ready Reserve Screening, Qualification Records

System, and Change of Address Reporting, para. 4-3 (3 Oct. 2019), [https://armypubs.army.mil/epubs/DR\\_pubs/DR\\_a/pdf/web/ARN15117\\_AR135-133\\_FINAL.pdf](https://armypubs.army.mil/epubs/DR_pubs/DR_a/pdf/web/ARN15117_AR135-133_FINAL.pdf) (emphasis added). Similarly, recruits in the DEP and assigned to USAREC should also update their contact information and any change of address directly with their recruiter to ensure official communications are received.

Dated: November 4, 2019

Respectfully submitted,

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